

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Review of Crown Simpson )  
Pulp Co. and Louisiana-Pacific Corporation )  
Orders Nos. 77-109 (NPDES No. CA0005282) and )  
77-110 (NPDES No. CA0005894) of the ) Order No. WQ 77-29  
California Regional Water Quality Control )  
Board, North Coast Region )  
A-186 )

---

BY THE BOARD:

On March 17, 1977, the State Water Resources Control Board (State Board) adopted waste discharge requirements (Order No. WQ 77-6, NPDES Nos, CA0005282 and CA0005894) for Crown Simpson Pulp Company (Crown Simpson) and Louisiana-Pacific Corporation (Louisiana-Pacific)(hereinafter sometimes collectively referred to as the "dischargers"), respectively. State Board Order No. WQ 77-6 remanded the waste discharge requirements to the California Water Quality Control Board, North Coast Region (Regional Board) for all purposes, including all appropriate enforcement activities. On June 23, 1977, the Regional Board adopted an Enforcement Order for the Issuance of a Time Schedule with respect to each Crown Simpson (Order No. 77-109) and Louisiana-Pacific (Order No. 77-110). On November 17, 1977, the State Board adopted Resolution No. 77-100 to review the actions of the Regional Board in adopting these Enforcement Orders.

I. BACKGROUND

The dischargers each operate bleached kraft pulp mills located on the Samoa Peninsula, on the west side of Humboldt Bay. Louisiana-Pacific also has a saw and plywood mill at this location. (The plywood mill is not currently operating.)

Each pulp mill produces about 600 air dry tons per day of bleached kraft pulp. The Louisiana-Pacific saw mill capacity is about 500,000 board feet per day of lumber. Each mill primarily discharges through a separate ocean outfall about 2,500 feet long with the diffuser located at a depth of 30-40 feet. The outfalls are about one mile apart.

On December 4, 1974, the Regional Board adopted waste discharge requirements for the dischargers. At that time, formally promulgated Environmental Protection Agency (EPA) effluent limitations guidelines were not available. EPA objected to the Regional Board orders on the basis that the Regional Board failed to implement fully the provisions of Section 301 of the Federal Water Pollution Control Act<sup>1/</sup> by not imposing effluent limitations which would require achievement of "best practicable control technology currently available" (BPCTCA) by July 1, 1977.

Subsequently, the State Board reviewed the Regional Board orders both on its own motion and in response to petitions filed by each of the dischargers. The State Board, after receiving evidence at a hearing on March 7, 1975, remanded the orders to the Regional Board with the direction that effluent limitations based on BPCTCA be included. If formally promulgated guidelines were available, they were to be applied. Otherwise, the Regional Board, after considering all relevant evidence, was to establish limitations based on its best judgment of what constituted BPCTCA.

---

1/ 33 U.S.C. 1251 et. seq.

On February 19, 1976, EPA promulgated Effluent Limitations Guidelines and Standards, Pulp, Paper, and Paperboard Point Source Category (Guidelines)<sup>2/</sup>. On July 6, 1976 and on January 6, 1977, EPA corrected and modified the Guidelines.

After hearing extensive testimony at its June 24, 1976, July 29, 1976, and August 26, 1976, meetings, the Regional Board adopted Order No. 76-133 (NPDES CA0005282) for Crown Simpson and Order No. 76-134 (NPDES CA0005894) for Louisiana-Pacific on August 26, 1976.

On September 3, 1976, EPA issued a letter of objection to the Regional Board orders. Grounds cited by EPA were inclusion of effluent limitations less stringent than the Guidelines without prior approval by the Administrator.

The State Board reviewed the actions of the Regional Board on its own motion and held a hearing on December 22, 1976. On March 17, 1977, the State Board adopted waste discharge requirements for the dischargers as exhibits to State Board Order No. WQ 77-6. The Order and waste discharge requirements adopted by the State Board recommend that the Administrator of EPA approve "fundamental difference" variances from discharge limitations based on the Guidelines. The waste discharge requirements specify compliance by July 1, 1977, with effluent limitations based on the Guidelines until such time as the Administrator approved other limitations. On September 15, 1977, the Administrator of EPA denied the variances.

On June 23, 1977, the Regional Board adopted an Enforcement Order for Issuance of a Time Schedule with respect to each

---

<sup>2/</sup> Title 40, Code of Federal Regulation, Part 430.

of the dischargers. These enforcement orders provided for a time schedule for compliance with the Guideline based waste discharge requirements adopted by the State Board with its Order No. WQ 77-6. The time schedules are based on the date of "...a final judicial determination with regard to the EPA Administrator's decision on the variance granted in State Water Resources Control Board Order No. 77-6".

## II. ISSUE AND FINDINGS

Section 301 of the Federal Water Pollution Control Act provides for compliance with guidelines based on BPCTCA by no later than July 1, 1977. No provision is made for extension of this time limit. In the procedures for issuance of time schedule, orders under Section 13300 of the California Water Code adopted by this Board and similar procedures adopted by EPA, administrative enforcement orders can provide time schedules for compliance extending beyond July 1, 1977, where the discharger shows that every reasonable effort has been made to comply with his discharge limitations at the earliest practicable date. It was not, and is not, the intent of this Board to provide for extensive delays such as those usually resulting from protracted litigation. Where delays in the applicability of effluent limitations pending the outcome of litigation are warranted, appropriate relief is available through the courts. Thus, we find that the action of the Regional Board in basing the time schedules for these dischargers on the conclusion of litigation is inappropriate and improper.

However, in order to permit the dischargers time to seek a stay order from the court, we will delay the effective date of the time schedules as follows:

The discharger will be given until January 16, 1978, to file a motion for a stay with the court and until March 17, 1978, to obtain such relief. The schedule adopted by the Regional Board will become effective upon failure of the dischargers to seek or obtain a stay within the time periods specified above.

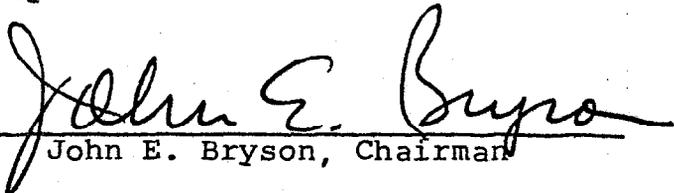
III. CONCLUSION

After review of this matter, and for the reasons heretofore expressed, we conclude that the actions of the Regional Board in adopting Orders Nos. 77-109 and 77-110 were generally appropriate and proper except that it was inappropriate to prescribe an indefinite time for commencement of the time schedule for compliance.

IV. ORDER

IT IS HEREBY ORDERED that California Regional Water Quality Control Board, North Coast Region, Orders Nos. 77-109 and 77-110 are hereby modified to provide that the time for completion of the tasks specified in Section I of said orders shall commence January 16, 1978, if the dischargers have not filed a motion for a stay by that date or on March 17, 1978, if such a motion is filed within the 30 day period or on such earlier date as the court denies the motion for a stay.

Dated: DEC 15 1977

  
\_\_\_\_\_  
John E. Bryson, Chairman

  
\_\_\_\_\_  
W. Don Maughan, Vice Chairman

  
\_\_\_\_\_  
W. W. Admas, Member